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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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BROOKS & KUSHMAN
1000 TOWN CENTER 22ND FL
SOUTHFIELD, MI 48075

EXAMINER

KANOF, PEDRO R

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 03/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/373,141

Applicant(s)

ISSA, GABRIEL N.

Examiner

Pedro R. Kanof

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-63 are rejected under 35 U.S.C. 102(e) as being anticipated by Shkedy (U. S. Patent No. 6,260,024).

Claims 1 and 32: Shkedy discloses a computer site and a method for conducting an online auction of a monetary amount for a specified category of items, the method comprising:

receiving at a computer site at least one bid having a discount rate for the specified category of items being auctioned from a plurality of sellers registered to participate in the auction (Col. 7, lines 49-58, and col. 8, lines 41-54);

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receiving at the computer site a commitment to buy an undiscounted value amount within the specified category of items at a minimum discount rate from at least one buyer registered to participate in the auction (Col. 7, lines 12-48, and col. 8, lines 21-28); and declaring at least one successful seller of the value amount for the specified category of items based on the bid from the successful seller or sellers having the greatest discount rate greater than or equal to the minimum discount rate and best meeting the buyer's individual conditions (Col. 7, lines 21-25 and col. 9, lines 3-35).

Clams 2 and 33: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein a commitment to buy an undiscounted value amount at a minimum discount rate is received from each of a plurality of buyers and wherein the method further comprises pooling the plurality of buyers to obtain various pooled award amounts and wherein the at least one successful seller is declared of his respective pooled award amount for the specified category of items (Col. 2, lines 43-67).

Claims 3, 4, 34, and 35: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein the items are products, and services (Col. 2, lines 43-67).

Claims 5 and 36. Shkedy discloses a computer site and a method as claimed in claims 2 and 33, wherein the plurality of buyers are independent and/or unrelated (Col. 2, lines 43-67).

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Claims 6 and 37: Shkedy discloses a computer site and a method as claimed in claims 2 and 33, further comprising receiving at the computer site information representing a minimum award amount or predefined sequence of minimum award amounts corresponding to a predefined sequence of discount bids that each seller is willing to accept from the pooled buyers for a given category (Col. 7, lines 21-25, and col. 29, line 25-col. 32, line 10).

Claims 7 and 38: Shkedy discloses a computer site and a method as claimed in claims 2 and 33, comprising receiving at the computer site information representing a maximum award amount that a seller is capable of accepting and willing to accept from the pooled buyers (Col. 17, line 23-col. 18, line 36).

Claims 8 and 39: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, further comprising receiving at the computer site information representing a method of guaranteeing the value amount from the at least one buyer (Col. 22, line 61-col. 23, line 50).

Claims 9 and 40: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein at least one seller is pre-approved to sell the specified category of items (Col. 23, line 51-col. 24, line 45).

Claims 10 and 41: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, further comprising receiving at the computer site information

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representing any sellers unacceptable to the at least one buyer Col. 3, line 1-col. 4, line 59).

Claims 11 and 42: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein the computer site is a Web site (Col. 1, line 31-col. 2, line 23).

Claims 12 and 43: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein the auction is a reverse auction (Col. 21, line 3-col. 22, line 25).

Claims 13 and 44: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein the auction ends a fixed period of time after the auction begins (Col. 22, line 61-col. 23, line 28).

Claims 14 and 45: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, further comprising receiving at the computer site a command from the at least one buyer to try to end the auction for the at least one buyer wherein a successful seller of the value amount for the at least one buyer can be declared before the preset auction expiration time (Col. 25, line 20-col. 26, line 45).

Claims 15 and 46: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, further comprising receiving at the computer site a command from the at least one buyer to try to end the auction for the at least one buyer wherein a successful seller of the value amount for the at least one buyer can be declared before the end of the auction (Col. 26, lines 46-64).

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Claims 16 and 47: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein the successful seller is determined by the buyer's pre-defined conditions (Col. 27, line 8-col 27, line 62).

Claims 17 and 48: .Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein the seller with the highest bid for discount rate is the successful seller (Col. 28, 62-col.29, line 18).

Claims 18 and 49: Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein there is more than one successful seller for a given auction (Col. 29, line 25-col. 32, line 10).

Claims 19 and 50: .Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein a buyer account is assigned to the registered buyer (Col. 6, line 18-col. 7, line 4).

Claims 20 and 51: .Shkedy discloses a computer site and a method as claimed in claims 19 and 50, wherein the buyer account includes various inter-linked sub-accounts (Col. 17, lines 23-60).

Claims 21 and 52:. Shkedy discloses a computer site and a method as claimed in claims 20 and 51, wherein the sub-accounts are linked to at least one external account of the registered buyer held by a financial institution (Col. 18, lines 23-36).

Claims 22 and 53: Shkedy discloses a computer site and a method as claimed in claims 21 and 52, wherein the buyer's funds can be transferred between the various

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sub-accounts and also between the sub-accounts and external accounts held by other financial institutions (Col. 20, lines 21-35).

Claims 23 and 54: .Shkedy discloses a computer site and a method as claimed in claims 22 and 53, wherein the registered buyer can transfer funds or reassign buying power amounts to the account of another registered buyer or a registered seller (Col. 21, lines 3-45).

Claims 24 and 55: ..Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein a seller account is assigned to each registered seller (Col. 21, line 52-col. 22, line 25).

Claims 25 and 56: .Shkedy discloses a computer site and a method as claimed in claims 24 and 55, wherein the seller account includes various inter-linked sub-accounts (Col. 3, line 1-col. 4, line 59, and col. 17, line 23-col. 18, line 36).

Claims 26 and 57: .Shkedy discloses a computer site and a method as claimed in claims 25 and 56, wherein the sub-accounts are linked to at least one external account of the at least one seller held by a financial institution (Col. 21, lines 3-45).

Claims 27 and 58: .Shkedy discloses a computer site and a method as claimed in claims 26 and 57, wherein the seller's funds can be transferred between the various sub-accounts and also between the sub-accounts and external accounts held by other financial institutions (Col. 21, line 52-col. 22, line 7).

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Claims 28 and 59: ..Shkedy discloses a computer site and a method as claimed in claims 27 and 58, wherein the at least one registered seller can transfer fronds or reassign buying power amounts to the account of another registered buyer or a registered seller (Col. 22, lines 8-25).

Claims 29 and 60: ..Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein a seller account is assigned to each registered seller. wherein the step of receiving at least one bid includes receiving a bidding table for at least one seller in which the at least one seller commits to a sequence of bids corresponding to a sequence of value amounts for a given category (Col. 22, line 61-col. 23, line 50).

Claims 30 and 61: ..Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein a seller account is assigned to each registered seller. wherein each of the sellers is pre-approved to sell the specified category of items (Col. 23, line 51-col. 24, line 45).

Claims 31 and 62: ..Shkedy discloses a computer site and a method as claimed in claims 1 and 32, wherein a seller account is assigned to each registered seller. wherein the auction ends an undetermined period of time after the auction' begins (Col. 17, line 23-col. 18, line 36).

Claim 63: Shkedy discloses a computer-implemented auction system for negotiating discount credits between sellers offering at least one pre-defined category

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of goods or service items and buyers wishing to purchase goods or service items selected from said category, comprising:

an auction system having an auction engine that presents a first interface for access by buyers in communicating willingness to purchase items selected from a pre-defined category at a negotiated category discount and a second interface for access by sellers in communicating willingness to offer items selected from the pre-defined category (Col. 1, line 31-col. 2, line 23, and col. 17, line 23-col. 18, line 36);

the first interface including a commitment amount field through which each buyer communicates the amount that buyer will commit to spend and a requested discount field through which each buyer communicates the smallest discount that buyer will accept (Col. 2, lines 43-67, and col. 20, lines 21-35);

a data storage associated with the auction engine for storing the identity of buyers who have communicated willingness to purchase items from the pre-defined category, and for storing bid data indicative of the commitment amount and requested discount communicated by each buyer (Col. 6, line 18-col. 7, line 4, and col. 21, line 3-col. 22, line 25);

the auction system further having a compilation system that analyzes the bid data to present information to sellers through the second interface indicative of the aggregate commitment amounts associated with different requested discounts (Col. 7, line 12-col. 8, line 54, and col. 22, lines 26-60);

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the second interface having a discount offer field through which each seller communicates the discount that seller is willing to offer (Col. 9, line 3, col. 10, line 67, and col. 22, line 61-col. 23, line 50);

a commitment system having a mechanism for terminating negotiation in response to a pre-defined criterion and for identifying a selected seller that has offered the greatest discount during the negotiation (Col. 12, line 10-col. 13, line 6, col. 23, line 53-col. 24, line 45, and col. 13, line 45-col. 14, line 25);

the commitment system communicating with the auction system to generate a discount record for at least a portion of the buyers identified in the data storage, each discount record including the identity of the buyer and seller, the pre-defined category on which the buyer negotiated and data indicative of the commitment amount and the discount offered by the selected seller (Col. 25, line 22-col. 26, line 64, col. 15, line 6-col. 17, line 22, and col. 27, line 8-col. 32, line 10).

Response to Arguments

3. Applicant's arguments filed 12/16/2002 have been fully considered but they are not persuasive. Shkedy discloses buyer driven system, buyer-driven protocols, minimum discount and price to beat, and buyer's leveraging position to obtain an optimum seller's bid (Col. 1 lines 57-65; Col. 7 lines 21-26; Col. 13 lines 44-61).

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4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exr. Pedro R. Kanof whose telephone number is (703) 308-9552. The examiner can normally be reached on weekdays from 7:30 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Vincent Millin, can be reached on (703) 308-1065. The fax phone number for this Group is (703) 305-7687.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.

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PRK 9/6/02


HYUNG SOUH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600